

MONTANA STATE AUDITOR

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STATE AUDITOR




COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

Advisory Memorandum

To: All Health Insurers Licensed in Montana

From: MONICA J. LINDEEN - Commissioner of Securities and Insurance
Office of the Montana State Auditor [CSI]

Date: August 21, 2009



Required Benefits for Autism Spectrum Disorders

REQUIRED BENEFITS FOR AUTISM SPECTRUM DISORDERS IN GROUP HEALTH INSURANCE

In 2009, the legislature passed a bill [SB 234] containing new health insurance coverage requirements for autism spectrum disorders. It is codified at §§ 33-22-515 and 33-22-706 and amends §§ 33-31-111 and 33-35-306, Montana Code Annotated 2009 (MCA). You can obtain a complete copy of the bill at <http://leg.mt.gov>.

New Section 1 of the bill [§ 33-22-515, MCA] states that each group health insurance policy, certificate or membership contract that is issued for delivery, renewed, extended or modified in Montana must provide certain specified coverage for the treatment and diagnosis of autism spectrum disorders for a covered child 18 years of age or younger.

Subsection (2) defines the disorders that may require the treatment specified in this section. Subsection (3) describes the types of treatment that must be covered, including, but not limited to, habilitative and rehabilitative care including medically necessary interactive therapies such as applied behavior analysis, medications, psychological care, and speech and occupational therapy.

Subsection (4) states that **the total benefits described in this statute of autism spectrum disorders may be capped at \$50,000 a year for children 8 years of age and younger and capped at \$20,000 for children aged 9 through 18 years of age.** Carriers may provide a richer benefit. The policy's or certificate's stated deductibles and copayments apply to the

autism coverage described, but special deductibles and copayments that are not generally applicable to other medical care may not be imposed for autism benefits. [Subsection (5)]

Pursuant to Subsection (6) the insurer may require a treatment plan from the physician that states the medical necessity for continued treatment. Subsection (7) defines "medically necessary." Section 33-22-515, MCA does **not** apply to disability income, hospital indemnity, Medicare supplement, accident only, vision, dental, specified disease, or long-term care insurance policies or certificates, but it **does apply to self-funded government health plans, self-funded multiple employer welfare plans, managed care plans and health maintenance organizations.**

REQUIRED BENEFITS FOR AUTISM SPECTRUM DISORDERS IN INDIVIDUAL HEALTH INSURANCE

SB 234 also amends § 33-22-706, MCA, Coverage for severe mental illness. **The benefits required by § 33-22-706, MCA, according to the plain language of the statute, apply to both individual and group health insurance.** Autism has always been defined as one of the illnesses that are subject to the provisions of § 33-22-706, MCA. In 2009, the legislature added additional **specifically described** benefits and limits for autism spectrum disorders in subsection (7) by stating that "coverage for a child with autism who is 18 years of age or younger must comply with" subsections (3) through (5) of § 33-22-515, MCA. Those subsections specify the kind of treatments that must be provided to children 18 years of age and younger, the \$50,000 and the \$20,000 allowable annual caps on those benefits, and the deductible and copayment provisions.

Individuals who are over 18 years of age who require treatment for autism will continue to receive "a level of benefits for the necessary care and treatment" of autism "that is no less favorable than that level provided for physical illness generally," as required by § 33-22-706(1), MCA, including, but not limited to, inpatient and outpatient services, rehabilitative services, prescription drugs, and psychological services.

EFFECTIVE DATE/ CHANGES TO FORMS MUST BE FILED

This law applies to membership contracts, policies or certificates issued or renewed after January 1, 2010. Please submit all changes to forms required by 2009 legislative changes that are effective January 1, 2010, by or before October 1, 2009, in order to avoid delays in form review. All policy and certificate forms issued for delivery in Montana must be approved by the CSI before use. In any event, forms must be filed at least 60 days before the date of intended use. Therefore, health insurers must amend, endorse, or re-file all health insurance policies and certificates with the Forms Bureau of the CSI no later than November 1, 2009, for a January 1, 2010 effective date.

If you have questions about the content of this memorandum, please contact Christina L. Goe, Chief Legal Counsel at 406-444-2040 or at cgoe@mt.gov.

If you have questions about filing forms, please contact Rosann Grandy, Forms Bureau Chief at 406-444-2040 or at rgrandy@mt.gov.